

Judges' Consideration of Corruption Offenses that Return and Do Not Return Part of the State Financial Losses

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ABSTRACT

This research aims to analyze the basis of the judge's consideration in resolving criminal acts of corruption against defendants who return and do not return state financial losses in Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk and 14/Pid.Sus-TPK/2023/PN.Tjk and analyze the sentences imposed by judges for criminal acts of corruption on defendants who return and do not return state financial losses in accordance with a sense of justice. The type of research used is normative research with a p approach legislative, conceptual and case study approaches. The data used is primary data and secondary data. Data analysis was carried out using legal interpretation. The results of this research show that the basis for the judge's considerations in resolving criminal acts of corruption against defendants who return and do not return state financial losses judicially is that the defendant's actions are legally and convincingly proven to have committed the criminal act of corruption Article 3 Jo. Article 18 Paragraph (1) letter b of the Corruption Eradication Law.

INTRODUCTION

Corruption is a crime and unlawful act committed by a person or corporation with the aim of benefiting themselves or the corporation, by abusing the authority, opportunities or facilities attached to their position and resulting in state financial losses. State financial losses are those caused by unlawful acts or acts of abusing the authority, opportunities or facilities available to a person because of his or her position or position and this is done in connection with the act of enriching oneself or another person or a corporation.

The impact of uncontrolled criminal acts of corruption can bring disaster not only to national economic life but also to the life of the nation and state in general. Corruption is an extraordinary crime that is widespread and systematic, and is a violation of the social and economic rights of the community, so comprehensive law enforcement is needed. Considering the impact of criminal acts of corruption, law enforcement is needed in order to eradicate criminal acts of corruption. Punishment of perpetrators of criminal acts of corruption should ideally be carried out maximally, either by imprisonment, fines or additional penalties of paying compensation, according to the mistake. Synergistic law enforcement efforts are needed between law enforcement agencies and other law enforcement agencies in eradicating criminal acts of corruption.

The criminal act of corruption is an extraordinary crime that can hamper national development, so it must be eradicated in an extraordinary way in order to create a just and prosperous society based on Pancasila and the 1945 Constitution. The criminal act of corruption is an extraordinary crime that is widespread and systematic, and is a violation of rights. -social rights and economic rights of the community, so comprehensive law enforcement is needed.

Efforts to ensure law enforcement against criminal acts of corruption must be carried out correctly, fairly, without arbitrariness or abuse of power. There are several principles that must always appear in every law enforcement, namely the principle of impartiality, the principle of honesty in examining and deciding (fairness), the principle of procedural due process, the principle of applying the law correctly which guarantees and protects substantive rights seeking justice and social (environmental) interests, the principle of guaranteeing freedom from all pressure and violence in the judicial process. The criminal justice system as the implementation of law enforcement consists of several bodies, namely the Police, Prosecutor's Office, Courts and Correctional Institutions.

The case of a criminal act of corruption that is detrimental to the interests of the community receiving the program which has been decided by the Corruption Crime Court at the Tanjung Karang District Court is in Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk and Decision Number: 14/Pid.Sus-TPK/2023/PN.Tjk. The defendant in Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk was previously named Johan working as a Sinar Mancak Village Apparatus, Panggung Island District, Tanggamus Regency, carrying out criminal act of corruption of Village Revenue and Expenditure Budget

funds. Based on Investigative Audit on the Management of the Sinar Mancak Village Revenue and Expenditure Budget for the 2019 Fiscal Year with the results outlined by the Tanggamus Regency Regional Inspectorate in the Audit Result Report (LHP) Number: 786/2993/19/2021 dated 31 May 2021, in which the Defendant's actions were detrimental state finances amounting to IDR 144,803,386.90 (one hundred forty four million eight hundred three thousand three hundred eighty six rupiah point ninety cents).

The Public Prosecutor's demand is that the defendant be sentenced to 2 (two) years in prison minus the time the defendant is in temporary detention with an order that the defendant remain in detention and a fine of Rp. 50,000,000.00 (fifty million rupiah) if the fine is not paid, it will be replaced with a sentence of 3 (three) months in prison. Apart from that, the defendant is required to pay replacement money amounting to Rp. 144,803,386.90 (one hundred and four twenty-four million eight hundred three thousand three hundred eighty-six rupiah point ninety cents) which is reduced by the goods that have been returned by the Defendant in the amount of Rp. 9,900,000.00 (Nine million Nine hundred thousand rupiah) so there is a shortage of replacement money must be paid by the defendant in the amount of Rp. 134,903,386,90.00 (one hundred and three twenty-four million Nine hundred three thousand three hundred eighty-six point ninety cents), provided that if the defendant does not pay the replacement money within 1 (one) month after a court decision that has permanent legal force, then The defendant's property will be confiscated by the prosecutor and auctioned off to cover up replacement money, in the event that the defendant does not have any assets sufficient to pay the replacement money, he will be punished with imprisonment for 1 (one) year.

Furthermore, the Panel of Judges handling this case sentenced the defendant to imprisonment for 1 (one) year and 6 (six) months and a fine of Rp. 50,000,000.00 (fifty million rupiah) provided that if the fine is not paid it will be replaced by imprisonment for 1 (one) month. Apart from that, the defendant imposed an additional penalty to pay compensation in the amount 134,903,386,90.00 (one hundred thirty four million nine hundred three thousand three hundred eight twenty-six point ninety cents), no later than one month After this decision has permanent legal force, if you don't pay then His property was confiscated and auctioned by the Prosecutor to recoup the money This replacement is provided if the convict does not have one If you have sufficient assets, you will be punished with imprisonment for 8 (eight) months.

Furthermore, the defendant in Decision Number: 14/Pid.Sus-TPK/2023/PN.Tjk was named Rismawansyah, who previously worked as a Family Hope Program (PKH) Facilitator in 2017 in the Marga Punduh District Area, Pesawaran Regency, carrying out criminal act of corruption of funds Family Hope Program.. Based on the Audit Report on Calculating State Financial Losses from the Lampung Province Representative Financial and Development Supervisory Agency (BPKP) Number SR-2051/P/V08/5/2019 dated 11 November 2019 regarding the Management of Assistance Funds for the Family Hope Program in Marga District In Punduh Pesawaran Regency for

the 2017 Fiscal Year there were irregularities which resulted in state financial losses amounting to IDR 192,000,000.00 (one hundred and ninety-two million rupiah).

The Public Prosecutor's demand is that the defendant be sentenced to imprisonment for 2 (two) years minus the time the defendant is in temporary detention with an order that the defendant remain in detention and a fine of Rp. 50,000,000.00 (fifty million rupiah) if the fine is not paid, it will be replaced with a sentence of 3 (three) months in prison. Apart from that, he demanded that the defendant pay compensation amounting to Rp. 192,730,000.00 (one hundred ninety-two million seven hundred thirty thousand rupiah), provided that if the defendant does not pay the replacement money within 1 (one) month after the court decision which has obtained permanent legal force, then the defendant's assets will be confiscated by the prosecutor and auctioned off to cover the replacement money. In the event that the defendant does not have sufficient assets to pay the replacement money, he will be punished with imprisonment for 1 (one) year.

Furthermore, the Panel of Judges handling this case sentenced the defendant to imprisonment for 1 (one) year and 8 (eight) months and a fine of Rp. 50,000,000.00 (fifty million rupiah) with the provision that if the fine is not paid it will be replaced by imprisonment for 2 (two) months. Apart from that, the defendant imposed an additional penalty to pay compensation in the amount of Rp. 192,730,000.00 (one hundred ninety-two million seven hundred thirty thousand rupiah) no later than one month after this decision becomes legally binding, if you do not pay, your assets will be confiscated and auctioned off by the Prosecutor to cover the replacement money provided that if the convict does not have sufficient assets, he will be sentenced to imprisonment for 8 (eight) months.

The problems in this research are: (1) What is the basis for the judge's consideration in resolving criminal acts of corruption against defendants who return and do not return state financial losses in Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk and 14/Pid. Sus-TPK/2023/PN. Tjk? (2) Are the penalties imposed by the judge for criminal acts of corruption on defendants who return or do not return state financial losses in accordance with a sense of justice?

LITERATURE REVIEW

The judge's decision in a criminal case is a decision handed down by the judge after examining and trying a criminal case based on the offenses stated in the indictment. A judge, when imposing a crime on a defendant, may not impose the crime unless there are at least two valid pieces of evidence, so that the judge is confident that the crime actually occurred and the defendant is guilty of committing it.

Judges as law enforcers have duties in the judicial sector, namely receiving, examining, deciding and resolving every case submitted to them. Justice seekers certainly really hope that cases submitted to the court can be decided by judges who are professional and have high moral integrity, so that decisions can be made that are in accordance with statutory regulations. Judges

have a central role in handing down decisions. Procedural law in Article 197 paragraph (1) letter d of the Criminal Code states that the criminal decision must contain concise considerations regarding the facts and circumstances, along with evidence obtained from the examination at trial which is the basis for determining the defendant's guilt. So the term is Facts and Circumstances. Furthermore, Article 197 paragraph (2) stipulates that failure to fulfill these provisions will result in the decision being null and void.

A judge's decision in a criminal case is a decision handed down by a judge in resolving a criminal case and is useful for the defendant in order to obtain legal certainty regarding his status. The judge's decision contains the principle of legal certainty which essentially expects and requires that the law be made with certainty in written form. The existence of this principle is important because it will guarantee the clarity of an existing positive legal product. The important meaning of this principle also has similarities (Similarity) with the main idea in the construction of legal positivism reasoning, namely clarity (Certainty).

The theory used to analyze the first problem is the Basic Theory of Judges' Considerations. Ahmad Rifai, the judge's decision must consider juridical, philosophical and sociological aspects, so that the justice that is to be achieved, realized and accounted for in the judge's decision is justice that is oriented towards legal justice, moral justice and community justice. (social justice).

- 1) The juridical aspect is the first and main aspect based on applicable laws. Judges as law applicators must understand the law by looking for laws related to the case at hand. Judges must assess whether the law is fair, beneficial or provides legal certainty if enforced because one of the goals of the law is to create justice.
- 2) The philosophical aspect is an aspect that is based on truth and justice
- 3) The sociological aspect considers the cultural values that live in society

The philosophical and sociological aspects of its application really require extensive experience and knowledge as well as wisdom that is able to follow values in society which have been neglected. Obviously its implementation is very difficult, because it does not follow the principles of legality and is not tied to the system. The inclusion of these three elements is so that the decision is considered fair and accepted by the community.

The theory of consideration of judges' decisions in this research is used to analyze the basis of judges' considerations in resolving criminal acts of corruption against defendants who return and do not return state financial losses in Decision Number, considering that this theory contains complete aspects of judges' considerations including juridical aspects, philosophical aspects and sociological. Thus, the use of this theory will become a comprehensive analytical tool in analyzing the basis of the judge's considerations in imposing the crime.

The theory used to analyze the second problem is the Theory of Justice. According to John Rawls, a Theory of Justice is a contribution to existing theories of justice formed by utilitarians and intuitionism. Utilitarianism and

Intuitionism were formulated by Jeremy Bentham and John Stuart Mill. Bentham and Mill's main thesis about justice is stated in the principle of The Greatest Happiness for The Greatest Number. This principle is taken from utilitarian assumptions about the concepts of pain and desire. Humans are assumed to always seek a sense of happiness/satisfaction and always walk away from suffering as far as possible. The consequence is that humans will always have a priority to maximize the benefits, advantages and all consequences of the most profitable actions. Justice as an act or treatment that is fair and just is impartial, unbiased and on the side of what is right. Justice according to philosophical studies is when two principles are fulfilled, namely: not harming anyone and treating every human being as is their right. If these two principles can be fulfilled then it is said to be fair or fulfills the elements of justice.

Judges should be able to become interpreters who are able to capture the spirit of justice in society and not be shackled by the procedural normative rigidity that exists in statutory regulations, because judges are no longer just implementers of laws. This means that judges are required to have the courage to make decisions that are different from the normative provisions of the law, so that substantial justice is always difficult to realize through court judges' decisions, because judges and court institutions only provide formal justice. Justice is an important aspect that must be present in a judge's decision.

John Rawls's Theory of Justice is used in this research to analyze the appropriateness of the sentences imposed by judges on perpetrators of criminal acts of corruption who have returned and have not returned state financial losses with a sense of justice, because this theory of justice contains two principles, namely not harming anyone and treating every human being. what is his right.

METHODOLOGY

This research is normative research with plegislative, conceptual and case study approaches. The data used is primary data and secondary data. The data collection procedure was carried out using library research techniques, namely collecting data by reviewing and quoting from library materials and reviewing statutory regulations related to the discussion. After collecting data, field data or empirical data is then processed, so that the data obtained can simplify the problem being studied. Data processing includes the stages of data selection, data classification and data systematization. Data analysis was carried out using legal interpretation.

RESEARCH RESULTS

a. The Judge's Basic Considerations in Resolving Corruption Crimes Against Defendants Who Return and Do Not Return State Financial Losses

Case position Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk and 14/Pid.Sus-TPK/2023/PN.Tjk as follows:

Position Case	Decision 18/Pid.Sus-	Number: 14/Pid.Sus-	Decision 14/Pid.Sus-	Number: 14/Pid.Sus-
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	TPK/2022/PN.Tjk	TPK/2023/PN.Tjk.
Defendant	Johan (Ex Village Apparatus)	Rismawansyah (Former PKH Companion)
Object of Corruption Crime	Sinar Mancak Village APBDes Funds, Panggung Island District, Tanggamus Regency	Fund Program Keluarga Harapan
Huge State Losses	Rp. 144,803,386.90	Rp. 192,730,000.00
Returns in the Investigation Process	Have returned Rp. 9,900,000.00	No Return
Prosecutor's demands	<ul style="list-style-type: none"> ▪ Imprisonment for 2 (two) years ▪ A fine of Rp. 50,000,000, ▪ Additional criminal payreplacement money amounting to Rp. 144,803,386.90 	<ul style="list-style-type: none"> ▪ Imprisonment for 2 (two) years ▪ A fine of Rp. 50,000,000.00 ▪ Additional punishment is paying replacement money of Rp. 192,730,000.00.
Judge's Verdict	<ul style="list-style-type: none"> ▪ Imprisonment for 1 (one) year and 6 (six) months ▪ A fine of Rp. 50,000,000.00 (fifty million rupiah) ▪ Additional punishment for the defendant to pay compensation in the amount134,903,386,90.00. If you are unable to pay, you will be sentenced to imprisonment for 1 (one) year. 	<ul style="list-style-type: none"> ▪ Imprisonment for 1 (one) year and 8 (eight) months ▪ A fine of Rp. 50,000,000.00 (fifty million rupiah) ▪ Additional punishment is paying compensation in the amount of Rp. 192,730,000.00.If you are unable to pay, you will be sentenced to imprisonment for 8 (eight) months

According to the table above, it is known that there are differences in the length of prison sentences imposed by the judge on the two defendants, in Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk, the panel of judges sentenced him to prison for 1 (one) year and 6 (six) months, while in Decision Number: 14/Pid.Sus-TPK/2023/PN.Tjk, the judge sentenced to imprisonment for a term 1 (one) year and 8 (eight) months.

Ideally, the punishment imposed on the perpetrator of a criminal offense Decision Number: 14/Pid.Sus-TPK/2023/PN.Tjk more than 1 (one) year and 8 (eight) months or the same as the Public Prosecutor's demand, namely imprisonment for 2 (two) years, because the defendant has not repaid any state

losses in the investigation process. Apart from that, the criminal act of corruption of PKH funds committed by the defendant was an act of taking away the rights of poor people who should receive assistance from this government program. The facts of the trial show that PKH funds which should have been distributed to poor people who were entitled to receive them were actually corrupted by the defendant and used for his daily needs and for gambling.

Meanwhile, in Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk, the panel of judges imposed a prison sentence of 1 (one) year and 6 (six) months, while the defendant has returned state financial losses amounting to Rp. 9,900,000.00 of the total loss of IDR 144,803,386.90. The length of prison sentence is only 2 (two) months compared to perpetrators who have not returned state financial losses in Decision Number: 14/Pid.Sus-TPK/2023/PN.Tjk namely 1 (one) year and 8 (eight) months, while the value of the loss is greater, namely reaching Rp. 192,730,000.00.

The crime of corruption can no longer be classified as an ordinary crime but has become an extraordinary crime, so extraordinary and comprehensive law enforcement is needed. Synergistic and mutually supportive law enforcement efforts are needed between one law enforcement agency and other law enforcement agencies in eradicating criminal acts of corruption. Fighting corruption is the responsibility of all components of the state and if it is only one party then efforts to eradicate corruption will be weak, this could become an obstacle to efforts to fight corruption.

Based on the description above, the basis for the judge's considerations in imposing criminal penalties on perpetrators of criminal acts of corruption who return and do not return state financial losses is in accordance with the theory put forward Ahmad Rifai said that the judge's decision was based on juridical, philosophical and sociological considerations. Judge's juridical consideration to The defendant who has returned state financial losses in Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk is that the defendant's actions have been legally and convincingly proven to have committed a criminal act of corruption as regulated in Article 3 Jo. Article 18 paragraph (1) letter b Law Number: 31 of 1999 concerning Eradication of Corruption Crimes as amended and supplemented by Law of the Republic of Indonesia Number: 20 of 2001 concerning Amendments to Law Number: 31 of 1999 concerning Eradication Corruption Crime. Furthermore, the judge's judicial consideration of the defendant who did not return state financial losses in Decision Number: 14/Pid.Sus-TPK/2023/PN.Tjk was that the defendant's actions were legally and convincingly proven to have committed a criminal act of corruption as regulated in Article 3 Jo. Article 18 paragraph (1) letter b Law Number: 31 of 1999 concerning Eradication of Corruption Crimes as amended and supplemented by Law of the Republic of Indonesia Number: 20 of 2001 concerning Amendments to Law Number: 31 of 1999 concerning Eradication Corruption Crime.

Philosophical considerations, the judge considered that the sentence imposed was a form of guidance and could have a deterrent effect on the

defendant. The panel of judges in Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk handed down imprisonment for 1 (one) year and 6 (six) months, a fine of Rp. 50,000,000.00 (fifty million rupiah) and an additional penalty to the defendant to pay compensation in the amount 134,903,386,90.00. If you are unable to pay, you will be sentenced to imprisonment for 1 (one) year. Furthermore, the panel of judges in Decision Number: 14/Pid.Sus-TPK/2023/PN.Tjk handed down imprisonment for 1 (one) year and 8 (eight) months, a fine of Rp. 50,000,000.00 (fifty million rupiah) and an additional penalty of paying compensation in the amount of Rp. 192,730,000.00. If you are unable to pay, you will be sentenced to imprisonment for 8 (eight) months. QThe purpose of punishment is not just to carry out retribution for an evil act, but also has other useful purposes, in the sense that the punishment is imposed not because the person has committed a crime, but rather the sentence is imposed so that the person does not commit the crime. Punishment must have a further purpose than just imposing a crime, so that the philosophical basis for imposing a crime is aimed at cultivating the perpetrator of a criminal act.

Considerations sociological, that is The judge considers aggravating and mitigating factors. The aggravating thing in Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk is that the Defendant's actions are contrary to the government's program to create a state apparatus that is free from KKN practices. The mitigating factors are that the defendant regrets his actions and promised not to repeat them, the defendant has never been punished and is polite during the trial and the defendant is the breadwinner of the family. Meanwhile, the aggravating factors are in Decision Number: 14/Pid.Sus-TPK/2023 /PN.Tjk) is the actions of the Defendant are contrary to the Government Program regarding Eradication of Corruption Crimes and The defendant has not compensated for all state financial losses. As for the mitigating factors are that the defendant has never been convicted and regrets his actions, the defendant is the breadwinner of the family, the defendant was polite and honest during the trial

In accordance with the Judge's Consideration Theory put forward by Ahmad Rifai, it can be stated that analyzing the basis of the judge's consideration in imposing criminal penalties on perpetrators of criminal acts of corruption who return and do not return state financial losses are appropriate based on juridical, philosophical and sociological considerations.

b. Sentences Imposed by Judges for Corruption Crimes on Defendants Who Return and Do Not Return State Financial Losses in Accordance with a Sense of Justice

Based on John Rawls's Theory of Justice, it is known that justice is generally defined as fair and just actions or treatment that are impartial, unbiased and on the side of what is right. Justice according to philosophical studies is when two principles are fulfilled, namely: not harming anyone and treating every human being according to their rights. If these two principles can be fulfilled then it is said to be fair or fulfills the elements of justice.

John Rawls's theory of justice is related to this research, namely the appropriateness of the sentence imposed by a judge on perpetrators of criminal

acts of corruption who have returned or not returned state financial losses with a sense of justice, because this theory of justice contains two principles, namely not harming anyone and treating every human being. which is his right. Thus, the author analyzes according to John Rawls's Theory of Justice, the decisions handed down by judges against perpetrators of criminal acts of corruption do not fulfill a sense of justice. This is known from Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk, where the panel of judges sentenced him to prison for 1 (one) year and 6 (six) months, while in Decision Number: 14/Pid.Sus-TPK/2023/PN.Tjk, the judge sentenced to imprisonment for a term 1 (one) year and 8 (eight) months. The criminal agreement imposed on the perpetrator of a criminal offense Decision Number: 14/Pid.Sus-TPK/2023/PN.Tjk more than 1 (one) year and 8 (eight) months or the same as the Public Prosecutor's demand, namely imprisonment for 2 (two) years, because the defendant has not repaid any state losses in the investigation process. Apart from that, the criminal act of corruption of PKH funds committed by the defendant was an act of taking away the rights of poor people who should receive assistance from this government program. The facts of the trial show that PKH funds which should have been distributed to poor people who were entitled to receive them were actually corrupted by the defendant and used for his daily needs and for gambling. Meanwhile, in Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk, the panel of judges imposed a prison sentence of 1 (one) year and 6 (six) months, while the defendant has returned state financial losses amounting to Rp. 9,900,000.00 of the total loss of IDR 144,803,386.90. The length of prison sentence is only 2 (two) months compared to perpetrators who have not returned state financial losses in Decision Number: 14/Pid.Sus-TPK/2023/PN.Tjk namely 1 (one) year and 8 (eight) months, while the value of the loss is greater, namely reaching Rp. 192,730,000.00.

The perpetrator abuses the authority that exists in the position or position of the perpetrator of the criminal act of corruption. Authority is a series of rights attached to the position or position of the perpetrator of a criminal act of corruption to take necessary actions so that his work duties can be carried out properly. This authority is contained in the provisions regarding work procedures relating to the position or position of the perpetrator of a criminal act of corruption. By abusing the opportunities available in the position or position of the perpetrator of a criminal act. Opportunities are opportunities that can be utilized by perpetrators of criminal acts of corruption, opportunities which are stated in the provisions regarding work procedures relating to the position or position held or occupied by perpetrators of criminal acts of corruption. In general, opportunities are obtained or obtained as a result of gaps or weaknesses in the provisions regarding work procedures or deliberate misinterpretation of these provisions.

The act of abusing authority in a criminal act of corruption aims to enrich oneself or another person or an entity. Basically, the meaning of enrichment here can be interpreted as an action in which the perpetrator increases his wealth because of this action. The modus operandi of enrichment can be done in various ways, for example by buying or selling, transferring accounts,

signing contracts, and other actions so that the perpetrator increases his wealth. Abuse of this authority is an act that is against the law. This act is unlawful. The element of unlawfulness in the Corruption Eradication Law includes acts against the law both in the formal sense and in the material sense, namely, even though the act is not regulated in statutory regulations, the act is considered reprehensible because it is not in accordance with the law. sense of justice or the norms of social life in society, then the act can be punished. Abuse of authority in this context has a detrimental impact on the state's finances or economy. The explanation of the Corruption Eradication Law determines that state finances are all state assets in whatever form separated or not separated , including all parts of state assets and all rights and obligations that arise because they are under the management and accountability control of state officials at both the central and regional levels.

Based on the description above, the author analyzes according to John Rawls's Theory of Justice, the decisions handed down by judges against perpetrators of criminal acts of corruption do not fulfill a sense of justice. This is known from Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk, where the panel of judges sentenced him to prison for 1 (one) year and 6 (six) months, while in Decision Number: 14/Pid.Sus-TPK/2023/PN.Tjk, the judge sentenced to imprisonment for a term 1 (one) year and 8 (eight) months.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

Based on the results of the research and discussion, it can be concluded as follows:

1. The basis for the judge's considerations in resolving criminal acts of corruption against defendants who returned and did not return state financial losses in Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk and 14/Pid.Sus-TPK/2023/PN. Juridically, the defendant's actions are legally and convincingly proven to have committed a criminal act of corruption as charged by the Public Prosecutor, namely Article 3 Jo. Article 18 Paragraph (1) letter b of the Corruption Eradication Law. The philosophical consideration is that the judge considers that punishment is not only aimed at having a deterrent effect on the perpetrator but as an effort to punish the defendant so that the defendant does not repeat the crime. Sociological considerations mean that the judge considers the aggravating and mitigating factors of the defendant's actions.
2. The decisions handed down by judges against perpetrators of criminal acts of corruption do not fulfill a sense of justice. This is known from Decision Number: 18/Pid.Sus-TPK/2022/PN.Tjk, where the panel of judges sentenced him to prison for 1 (one) year and 6 (six) months, while in Decision Number: 14/Pid.Sus-TPK/2023/PN.Tjk, the judge sentenced to imprisonment for a term 1 (one) year and 8 (eight) months. The criminal agreement imposed on the perpetrator of a criminal offense Decision Number: 14/Pid.Sus-TPK/2023/PN.Tjk more than 1 (one) year and 8 (eight) months or the same as the Public Prosecutor's demand, namely imprisonment for 2

(two) years, because the defendant has not repaid any state losses in the investigation process.

Recommendation

Some of the recommendations proposed in this research are as follows:

1. To the Corruption Court Panel of Judges to impose the maximum sentence on perpetrators of criminal acts of corruption in order to provide a deterrent effect to the perpetrators and as a lesson for other parties not to commit criminal acts of corruption.
2. To the public in general to participate in carrying out supervision of activities that use funds from the government for the benefit of the community, so that with supervision from the community it is hoped that it can prevent and minimize the occurrence of criminal acts of corruption.

ADVANCED RESEARCH

The limitation of this research is that it only discusses research studies. The basis for the judge's considerations in resolving criminal acts of corruption against defendants who return and do not return state financial losses, therefore, other researchers in the future should conduct further studies regarding the execution by the Prosecutor's Office of court decisions that have permanent legal force in order to recovery of state financial losses.

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